

MATTHEW J. McKEOWN
Acting Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Division
Washington, D.C.

NELSON COHEN
United States Attorney
Anchorage, Alaska

MARK A. NITCZYNSKI
US Department of Justice
Environmental Defense Section
1961 Stout Street - 8th Floor
Denver, CO 80294
Phone: (303) 844-1498
Fax: (303) 844-1350

RICHARD L. POMEROY
DANIEL COOPER
Assistant United States Attorney
District of Alaska
Federal Building & U.S. Courthouse
222 West Seventh Avenue, #9
Anchorage, Alaska 99513
Telephone: (907) 271-5071

Attorneys for Plaintiff United States of America

**UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Case No. A-01-378 Civil (RRB)
v.)	
)	MARCH 12, 2007 STATUS REPORT
CLARENCE ABELDGAARD,)	AND REQUEST TO STAY
OCEANVIEW ENTERPRISES, INC.,)	PROCEEDINGS AGAINST
CLOYD MOSER and MODEB)	GERALDINE BARLING
INVESTMENTS,)	
)	
Defendants.)	
_____)	

Plaintiff United States of America ("United States") hereby submits this March 12, 2007
Status Report and Request to Stay Proceedings Against Geraldine Barling ("Status Report") in

accordance with this Court's February 26, 2007 Order Granting Joint Motion to Stay Currently Pending Motions (Docket No. 167), which required that a status report be filed by March 12, 2007. The United States states further as follows:

1. As set forth in the Joint Motion to Stay Currently Pending Motions ("Joint Motion") submitted on behalf of the United States and Ms. Barling (Docket No. 165), those parties requested a joint stay of the motions pending in the proceedings against Ms. Barling so that those parties could focus their efforts on settlement.^{1/}

2. The United States and Ms. Barling reported that they had agreed to meet in person in Anchorage, Alaska no later than Friday, March 9, 2007 to discuss settlement.^{2/}

3. On February 26, 2007, the Court issued the order that stayed the currently pending motions and directed that a status report be filed no later than March 12, 2007. (Docket No. 167.)

4. The settlement meeting in Anchorage, Alaska took place on February 28, 2007. During that meeting, representatives of the United States and Ms. Barling reached a proposed agreement. Representatives of the United States and Ms. Barling further agreed that the United States quickly would draft a revised version of a proposed consent decree, and that Ms. Barling would attempt to provide her response on that draft in time to inform the Court of her response in

^{1/} Those pending motions are: (1) United States' Request That Clerk of Court Enter Default Against Geraldine Barling Pursuant to Fed. R. Civ. P. 55(a) for Failure to Answer Second Amended Complaint, Docket No. 157-1; (2) Motion & Memorandum for Leave to Late File an Answer to the Complaint, Docket No. 159; and (3) Request for Hearing and Motion for Withdrawal by Attorney, Docket No. 161.

^{2/} The United States and Ms. Barling reported that they might seek to schedule the meeting for earlier than March 9, but agreed that the meeting would take place no later than March 9, 2007.

this Status Report.

5. On March 6, 2007, the United States sent a draft consent decree to counsel for Ms. Barling. The United States noted that there were some gaps in the proposed documents that needed to be filled, but that the documents were adequate for Ms. Barling's review. On March 12, 2007, counsel for Ms. Barling informed counsel for the United States that Ms. Barling had agreed to the terms of the proposed consent decree.

6. The United States is in the process of finalizing the proposed consent decree and seeking the required approvals of it. As with all such potential settlements, the proposed consent decree requires formal review and approval at EPA as well as at the Department of Justice. Formal approval from officials with settlement authority is required before the United States can execute such a settlement, and changes may need to be made at the request of those officials. Therefore, before a proposed consent decree may be lodged with the Court, the documents must be finalized and formally approved by EPA and the Department of Justice. Those approval processes have begun.

7. The United States proposes, and Ms. Barling concurs, that the proceedings against Ms. Barling be stayed until April 12, 2007 or until a consent decree is lodged with the Court, whichever is sooner. The United States further proposes that, if a consent decree has not been lodged by April 12, 2007, a status report be filed by April 12, 2007 that addresses the status of the case and suggests further proceedings. A proposed order is being filed contemporaneously with this Status Report.

Respectfully submitted,

MATTHEW J. McKEOWN
Acting Assistant Attorney General

Environment and Natural Resources Division
UNITED STATES DEPARTMENT OF JUSTICE

/s/ Mark A. Nitczynski
MARK A. NITCZYNSKI
Environmental Defense Section
UNITED STATES DEPARTMENT OF JUSTICE
1961 Stout Street - 8th Floor
Denver, CO 80294
PHONE: (303) 844-1498
FAX: (303) 844-1350

NELSON COHEN
United States Attorney
District of Alaska
RICHARD L. POMEROY
Assistant U.S. Attorney

OF COUNSEL:
DAVID ALLNUTT
U.S. ENVIRONMENTAL PROTECTION AGENCY,
REGION X
Seattle, Washington

Attorneys for Plaintiff United States

CERTIFICATE OF SERVICE

I, Mark A. Nitczynski, certify that on this March 12, 2007, I caused to be filed electronically the foregoing MARCH 12, 2007 STATUS REPORT AND REQUEST TO STAY PROCEEDINGS AGAINST GERALDINE BARLING (along with the [PROPOSED] ORDER STAYING PROCEEDINGS AGAINST GERALDINE BARLING) with the Clerk of Court using the CM/ECF system, which sends a Notice of Electronic Filing to Darryl L. Thompson (counsel for Defendant Geraldine Barling), and that I caused hard copies of the foregoing to be served by United States mail on the following persons:

Lawrence V. Albert
P.O. Box 200934
Anchorage, AK 99520

Counsel for Cloyd Moser and Modeb Investments

C.E. Abeldgaard

Oceanview Enterprises, Inc.
P.O. Box 891
Homer, Alaska 99603

Pro Se

/s/ Mark A. Niteczynski
MARK A. NITCZYNSKI